

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONNELL WILLIAMS,

Plaintiff,

Case No. 2:14-cv-206

v.

HONORABLE PAUL L. MALONEY

UNKNOWN OLSON, et al.,

Defendants.

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ORDER ADOPTING REPORT AND RECOMMENDATION

This is a prisoner civil rights action filed pursuant to 42 U.S.C. § 1983. The Court has reviewed the Report and Recommendation filed by United States Magistrate Judge Timothy P. Greeley on October 4, 2017. The Report and Recommendation was duly served on the parties. The parties were to file objections within 10 days of receipt of the Report and Recommendation. Plaintiff filed objections asking that the Court review: (1) his request for appointment of counsel; (2) the Magistrate Judge's conclusion that he did not abide by the Case Management Order; (3) the case caption; and (4) the potential use of his deposition testimony for impeachment purposes at trial. (ECF No. 89.)

Of Plaintiff's objections, the first and fourth are not properly before the Court because they are not addressed or even referenced by the R & R. The third objection is of no legal consequence—a computer-generated error created the erroneous case caption on the Notice of Hearing. Finally, the Court has reviewed Plaintiff's second objection, that the Magistrate “attempt[ed] to make it appear that Plaintiff intentionally failed to comply with the Court's procedural instructions” and that Plaintiff “attempted to comply with the Court's Order to the best

of his abilities.” (ECF No. 89 at PageID.582.) While perhaps there are situations in which the Court may excuse failure to comply with a case management order, this is not one of them. Plaintiff does not explain how or why his best efforts were insufficient to ensure his compliance with the CMO, nor does he explain any external factors that precluded him from doing so. In sum, the Court can discern no basis for sustaining Plaintiff’s objection.

IT IS HEREBY ORDERED that the Report and Recommendation (ECF No. 82) is **APPROVED** and **ADOPTED** as the Opinion of the Court.

IT IS FURTHER ORDERED that Plaintiff Williams’ Objections (ECF No. 89) are **OVERRULED**.

IT IS FURTHER ORDERED that, for the reasons stated in the Report and Recommendation, only three exhibits are permitted for use at trial; (1) the December 10, 2011 Class I Misconduct Report for Threatening Behavior; (2) the Cell Search Log from October 2011; and (3) the Kite from December 2011.

IT IS FURTHER ORDERED that, for the reasons stated in the Report and Recommendation, Plaintiff is prohibited from calling any witnesses other than Theresa Depriest.

Dated: October 19, 2017

/s/ Paul L. Maloney
Paul L. Maloney
United States District Judge